

Remarks

The applicants have carefully considered the Office action dated November 24, 2009, and the art applied therein. In view of the foregoing amendments and the following remarks, the applicants respectfully request reconsideration of the claims.

Applicants' Interview Summary

The undersigned would like to thank Examiner Belani for the interview conducted February 24, 2010. The Saussy and Bareis references were discussed. While no specific agreement regarding patentability was reached, the undersigned thanks the Examiner for his courtesy and assistance in advancing prosecution of the above-referenced application.

Claim 28

Claim 28 was identified as allowable. Claim 28 is not further discussed herein.

Objections to the Specification

By way of the foregoing amendments, the specification now includes a reference to the related patent identified in the Office action. Accordingly, withdrawal of the objections to the specification is respectfully requested.

Double Patenting Rejections

Claims 1-26 were rejected on the ground of non-statutory obviousness-type double patenting over the claims of U.S. Patent No. 7,315,538. Applicants respectfully traverse this rejection. Nevertheless, a terminal disclaimer in compliance with 37 C.F.R. 1.321(c) will be filed to moot the issue.

The Rejections under 35 U.S.C. § 112

Claims 24, 26, 7-12, and 14-21 were rejected under 35 U.S.C. § 112, second paragraph, as indefinite. By way of the foregoing amendments, claim 24 has been amended to recite first and second aggregators. Claim 26 has been amended. It is respectfully submitted that all claims comply with 35 U.S.C. § 112.

The Rejections under 35 U.S.C. § 103(a)

The Office action rejected claims 22, 24, and 26 as unpatentable over a combination of Saussy (US 5,936,963) (hereinafter “Saussy”) and Bareis (U.S. 2008/0310436) (hereinafter “Bareis”). The applicants respectfully traverse the rejection. Claim 22 now recites, *inter alia*, aggregating a plurality of asymmetric Ethernet connections between the Ethernet network and the first point of service to cooperatively communicate data between the Ethernet network and the first point of service to thereby increase total download and upload bandwidth to the subscriber, and simultaneously communicating a first portion of a subscriber data communication between the first point of service and the Ethernet network on a first one of the aggregated asymmetric Ethernet connections and a second portion of the subscriber data communication on a second one of the aggregated asymmetric Ethernet connections.

The Office action concedes that Saussy and Bareis fail to disclose simultaneously aggregating communication data both at a first subscriber’s location and at an Ethernet network, thereby providing increased bandwidth to a subscriber in both the upload and the download directions simultaneously, while still maintaining asymmetry. *See Office action, page 37.* The applicants respectfully submit that, in view of the foregoing, the deficiencies of Saussy and Bareis extend to failing to teach or suggest aggregating a plurality of asymmetric Ethernet connections between the Ethernet network and the first point of service to cooperatively communicate data between the Ethernet network and the first point of service to thereby increase total download and upload bandwidth to the subscriber, and simultaneously communicating a first portion of a subscriber data communication between the first point of service and the Ethernet network on a first one of the aggregated asymmetric Ethernet connections and a second portion of the subscriber data communication on a second one of the aggregated asymmetric Ethernet connections.

Claim 24 now recites, *inter alia*, first and second aggregators to aggregate download and upload bandwidths of the asymmetric Ethernet connections to increase total download and upload bandwidth to the subscriber, and to simultaneously communicate a first portion of a subscriber data communication between the first point of service and the Ethernet network via a first one of the asymmetric Ethernet connections and a second portion of the subscriber data communication via a second one of the asymmetric Ethernet connections. The applicants respectfully submit that neither Saussy nor Bareis teaches or suggests such a system. Thus, claims 24 and all claims depending therefrom are allowable over Saussy and Bareis.

Claim 26 now recites, *inter alia*, a first aggregator device coupled to the first point of service to simultaneously transmit a first portion of a first communication via the first asymmetric Ethernet connection and a second portion of the first communication via the second asymmetric Ethernet connection to increase total upload bandwidth to the subscriber, and to receive a third portion of a second communication between the first point of service and the Ethernet port of the Ethernet network via the first asymmetric Ethernet connections and a fourth portion of the second communication via the second asymmetric Ethernet connection to thereby increase the total download bandwidth to the subscriber. The applicants respectfully submit that neither Saussy nor Bareis teaches or suggests such a system. Thus, claims 26 and all claims depending therefrom are allowable over Saussy and Bareis.

Conclusion

In general, the Office action makes various statements regarding the pending claims and the cited references that are now moot in light of the above. Thus, the applicants will not address such statements at the present time. However, the applicants expressly reserve the

right to challenge such statements in the future should the need arise (e.g., if such statement should become relevant by appearing in a rejection of any current or future claim).

Reconsideration of the application and allowance thereof are respectfully requested.

If there is any matter that the examiner would like to discuss, the examiner is invited to contact the undersigned at the telephone number set forth below.

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